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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/651,059	08/28/2003	Dominic Anthony Viscomi	Viscomi-Viscomi	9001
39570	7590	12/21/2005	EXAMINER	
DOMINIC A. VISCOMI 1868 FELICITY LANE HELLERTOWN, PA 18055			WILSON, JOHN J	
			ART UNIT	PAPER NUMBER
			3732	
DATE MAILED: 12/21/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/651,059

Applicant(s)

VISCOMI ET AL.

Examiner

John J. Wilson

Art Unit

3732

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 08 November 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☒ Applicant's reply has overcome the following rejection(s): The Double Patenting rejection in view of 10/457,168.
6. ☒ Newly proposed or amended claim(s) 26 would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 16-25.

Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____.

ATTACHMENT:
Interview Summary.

Continuation of 3. NOTE: While an After Final interview has been held in this application, and certain claim language was agreed with, the final submitted claim language is not in condition for allowance. With respect to submitted new claim 37, it has been amended more than was agreed to during the interview, and as such, this amendment is not being entered. Further, problems with the language of that claim and others has been found, and must be corrected. It is noted that in interviews after final, as with all interviews, the language is subject to final review of the actual submitted language before an application can be issued. Below, each of the newly submitted claims is addressed and language suggested.

Claim 26 is allowable as written.

In claim 27, "may possess" is indefinite, the claim would be allowable is "may" is cancelled.

In claim 28, "may contain" is indefinite, if "which may contain" is changed to -, and further includes -.

In claim 29, "there is one" is unclear if it limiting the claim to just one, in which case the claim would be in contradiction to the claim from which it depends which already claims a weakening or separating notch contiguous with the hole, therefore, it is assumed that this is claiming an additional notch. If "there is one weakening or separating notch" is changed to, - said band includes a plurality of weakening or separating notches, and one of said notches is located -.

In claim 30, "there is a" is unclear as to whether this is referring to the weakening or separating notch referred to in claim 26 or an additional notch. If it is the same notch, then "there is a weakening or separating notch" should be changed to, - said weakening or separating notch is positioned -. If this is an additional notch, then "there is a weakening or separating notch" should be changed to, - said band includes a plurality of weakening or separating notches, and one of the notches is located -.

In claim 31, line 1, after "wherein" the claim language should be changed to, - said band includes a plurality of weakening and separating notches, one of said notches is located on the inferior border of said hole and is in alignment with a second weakening or separating notch which is located on the inferior border of said band's body -.

In claim 32, "there is a" is unclear as to whether this is referring to the weakening or separating notch referred to in claim 26 or an additional notch. If it is the same notch, then "there is a weakening or separating notch" should be changed to, - said weakening or separating notch is positioned -. If this is an additional notch, then "there is a weakening or separating notch" should be changed to, - said band includes a plurality of weakening or separating notches, and one of the notches is located -.

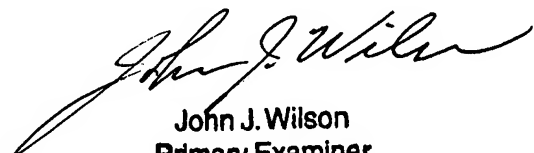
In claim 33, line 1, after "wherein" the claim language should be changed to, - said band includes a plurality of weakening and separating notches, one of said notches is located in the superior aspect of said hole and is in alignment with a second weakening or separating notch which is located on the inferior border of said band's body -.

In claim 34, line 1, after "wherein" the claim language should be changed to, - said band includes a plurality of weakening and separating notches, one of said notches is located on the inferior border of said hole and is in alignment with a second weakening or separating notch which is located on the superior aspect of said hole -.

In claim 35, line 1, after "wherein" the claim language should be changed to, - said band includes a plurality of weakening and separating notches, one of said notches is located on the inferior border of said body, a second weakening or separating notch is located on the inferior border of said hole or extrusion window, and a third weakening or separating notch is located on the superior border of the hole or extrusion window, all of said notches are in alignment with each other.

In claim 36, a claim must be one sentence, and therefore, periods within the body of the claim are not allowed. All "." except the last, must be changed to - , -. Also, "(e) the introducing" should be changed to - (e) introducing -.

In claim 37, paragraph (a) is unclear, for example, the language "notches within said body that align inferior-superiorly though at least one hole with a continuous periphery formed within said boomerang shaped body's intact hole". If paragraph (a) of claim 37 is changed to be the same as paragraph (a) of claim 36, and if the periods "." are changed to - , - as stated above with respect to claim 36, then this claim would be allowable.



John J. Wilson
Primary Examiner